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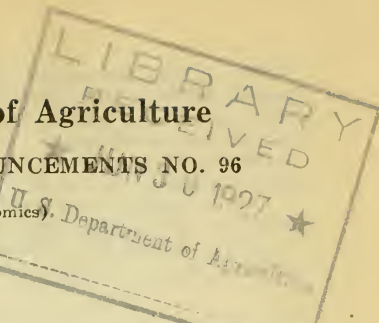


United States Department of Agriculture

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 96

(Bureau of Agricultural Economics)

[Revised June, 1927]



RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE GRADING AND CERTIFICATION OF BUTTER, CHEESE, AND EGGS FOR CLASS, QUALITY, AND CONDITION

Under an Act of Congress Approved January 18, 1927

(44 Stat. 977)

By virtue of the authority vested in the Secretary of Agriculture by a provision of the act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1928," approved January 18, 1927 (44 Stat. 977), authorizing the investigation and certification of the class, quality, and/or condition of perishable farm products, I, W. M. Jardine, Secretary of Agriculture, do prescribe and promulgate the following rules and regulations governing the grading and certification of butter, cheese, and eggs for class, quality, and for condition, to be in force and effect on and after July 1, 1927, and as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the city of Washington, this 28th day of April, 1927.

[SEAL]

W. M. JARDINE.

Regulation 1. Definitions

SECTION 1. Words in these regulations in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

SEC. 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

Paragraph 1. The act.—The following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1927," approved January 18, 1927 (44 Stat. 977), or any future act of Congress conferring like authority: "For enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the class, quality, and/or condition of cotton and fruits, vegetables, poultry, butter, hay, and other perishable farm products, when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

Par. 2. Person.—Individual, association, partnership, or corporation.

Par. 3. Secretary.—Secretary or Acting Secretary of Agriculture of the United States.

Par. 4. Bureau.—Bureau of Agricultural Economics of the United States Department of Agriculture.

Par. 5. Official grader.—Employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the class, quality, and/or condition of butter, cheese, or eggs under the act.

Par. 6. Office of grading.—The office of an official grader authorized to grade butter, cheese, and/or eggs under the act.

Par. 7. Grading certificate.—Certificate of the class, quality, and/or condition of butter, cheese, and eggs by an official grader under the act.

Par. 8. Regulations.—Rules and regulations of the Secretary governing the grading and certification of butter, cheese, and eggs under the act.

Regulation 2. Administration

SECTION 1. The chief of the bureau is charged with the supervision of the performance of all duties arising in the administration of these regulations.

Regulation 3. Where Service is Offered

SECTION 1. Butter, cheese, and/or eggs may be graded for the purpose of the act at points indicated in paragraphs 1, 2, and 3 of this section whenever an official grader is available.

Paragraph 1. Shipping points.—Grading may be made wherever butter, cheese, or eggs are offered for interstate shipment, including farms, factories, warehouses, loading platforms, wagons, trucks, railway cars, boats, vessels, and other places where these products are handled, kept, or stored.

Par. 2. Designated markets.—Boston, Chicago, New York, Philadelphia, Duluth, St. Paul, Minneapolis, San Francisco, and Washington are hereby designated as important central markets. Other important central markets at which official graders are available will be designated by the Secretary from time to time.

Par. 3. Other points.—Grading may be done at any point near a designated market under conditions provided in regulation 5 to the extent permitted by the time of official graders who are available for gradings at such other points.

Regulation 4. Application for Grading

SECTION 1. *Who may obtain grading.*—An application for grading of butter, cheese, or eggs under the act may be made by a State, or by any person having a financial interest in the butter, cheese, or eggs involved, including the shipper, the receiver, or the carrier, or by any authorized person in behalf of such applicant.

SEC. 2. *How grading may be obtained.*—Application for grading of butter, cheese, or eggs under the act may be made in writing or orally, by telegraph, telephone, or otherwise. Such application may be filed in the office of grading or with any authorized official grader at or nearest the place where the grading is desired. If made orally, the official grader may require that it be confirmed in writing.

SEC. 3. *Form of application.*—Application for grading of butter, cheese, or eggs, under the act, shall be in English, and when requested by the official grader to be in writing shall include the following information: (a) The date of application; (b) the identification and location of the product to be graded; (c) the name and post-office address of the applicant and of the person, if any, making the application in his behalf; (d) the interest of the applicant (except the State) therein; (e) the name, post-office address, and interest of all other known parties, except carriers, interested in the butter, cheese, or eggs involved; (f) the shipping point and destination of the product; (g) the purpose of the grading; and (h) such other information as the official grader may require.

SEC. 4. *Application rejected.*—Any application may, upon request of the applicant or for any noncompliance with the act or any regulation thereunder, be rejected by the official grader in charge of the office of grading in which it is filed, and such official grader shall immediately notify the applicant by telegraph or in writing of the reasons for such rejection.

SEC. 5. *Proof of authority.*—Proof of the authority of any person applying for grading on behalf of another may be required in the discretion of the official grader.

Regulation 5. Grading

SECTION 1. *Forms of grading.*—Grading may be made for class, quality, and/or condition.

Paragraph 1.—Basis of grading.—Grading for class, quality, and/or condition shall be based upon such standards and grades and be made under such conditions and in accordance with such methods as may be prescribed, approved, or promulgated by the chief of bureau.

SEC. 2. Products accessible.—The applicant shall cause the butter, cheese, or eggs for which grading is requested to be made accessible for grading, and to be so placed as to disclose its quality and condition.

SEC. 3. Order of grading.—Grading service shall be rendered as far as practicable in the order in which applications are received, except that preference may be given to applications made by a State.

SEC. 4. Financial interest of official graders.—No official grader shall grade any butter, cheese, or eggs in which he is directly or indirectly financially interested.

Regulation 6. Grading Certificates

SECTION 1. Certificate for each lot.—The official grader shall sign and issue a separate certificate for each lot of butter, cheese, or eggs graded by him: *Provided*, That when application for grading is made by any branch of the Federal Government or by a public institution or a public carrier, for the purpose of determining whether such food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the official grader. The official grader also, when authorized by the chief of the bureau, may stamp each package in the lot with the class, grade, or quality of the product contained in it, or the applicant may issue, when authorized by the chief of the bureau, certificates of quality of such form as have the approval of the chief of the bureau, the certificates of quality issued by the applicant to be used only by the applicant in such manner and for such purpose as is approved by the chief of the bureau.

SEC. 2. Original and copies of certificate.—The original grading certificate immediately upon its issuance, shall be delivered or mailed to the applicant or person designated by him. If the shipper is known and is not the applicant, one copy shall be delivered or mailed to him. Copies will be furnished to other financially interested persons on request.

SEC. 3. Advance information.—Upon request of an applicant, all or any part of the contents of the certificate may be telegraphed or telephoned to him at his expense.

SEC. 4. Filing certificates.—One copy of each certificate issued shall be filed in the office of the official grader issuing it and one filed either in the office of the field supervising grader or forwarded to the chief of the bureau. They shall be kept on file until other disposition is ordered by the chief of the bureau.

Regulation 7. Regrading

SECTION 1. When regrading may be done.—Whenever the original applicant or other interested party has reason to believe that the class, quality, or condition of a lot of butter, cheese, or eggs on which a grading certificate has been issued does not conform to the condition, quality, or grade stated in such certificate, he may make application for regrading, provided the application is made before the close of the third business day following the date of the original grading and before the identity of the original lot of butter, cheese, or eggs graded has been lost.

SEC. 2. How to obtain regrading.—Application for regrading of butter, cheese, or eggs under the act may be made in writing or orally, by telegram, telephone, or otherwise. Such application may be made to (a) any official grader, (b) supervising official grader, or (c) the chief of the bureau. If made orally, the person receiving the application may require that it be confirmed in writing. Such application shall give the reasons therefor and shall be accompanied by the certificate previously issued on the lot, if it is in the possession of the applicant.

SEC. 3. Record of applications for regrading.—A record showing the date and time of filing such application shall be made by the receiver thereof.

SEC. 4. When an application for regrading may be withdrawn.—An application for regrading may be withdrawn by the applicant at any time before the regrading is made, upon payment of any expenses incurred in connection therewith.

SEC. 5. Official graders who may pass on regrading applications.—Applications for regrading shall be passed upon by official graders designated for the purpose by the chief of the bureau.

SEC. 6. When a regrading may be refused.—If it shall appear that the reasons stated in an application for regrading are frivolous or unsubstantial, or that the quality or condition of the butter, cheese, or eggs has undergone material change since the last previous grading, or regrading, or the identical butter, cheese, or eggs can not be made accessible for grading, or the act or these regulations have not been complied with, the application may be rejected and the applicant shall be notified the same day, by telegraph or in writing, of the reason for such rejection, and a statement of such action shall be included in the record of such application by the official making the same. Upon the rejection or withdrawal of an application for regrading, any grading certificate filed therewith shall be immediately returned to the person by whom filed, or delivered upon his written order.

SEC. 7. Certificate of regrading.—The official grader making a regrading shall sign and issue a "regrading certificate," referring specifically to all previous grading and regrading certificates, and stating the quality and condition of the butter, cheese, or eggs as found on the last grading or regrading. In all other respects the provisions of regulation 4 shall apply to such regrading certificates, except that copies of the regrading certificate shall be sent to all interested parties, if known, other than the carriers, and to such of them as have been the applicants for any previous grading or regrading.

SEC. 8. Extension of time.—Upon satisfactory showing of evidence of fraud, or that on account of distance the time of filing is insufficient, or other good cause, the person mentioned in section 2 of this regulation, to whom the application for regrading is made, may permit the filing of such application after the time prescribed therefor in these regulations, and a statement of such action shall be included in the record of such regrading by the official making the same.

SEC. 9. Certificate superseded shall not represent the quality, condition, or grade of butter, cheese, or eggs.—When a grading certificate shall have been superseded under these regulations by a regrading certificate, such grading certificate shall not thereafter represent the quality, condition, or grade of the lot of butter, cheese, or eggs described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for regrading is filed, the officer issuing the regrading certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons or firms as he considers necessary to prevent fraudulent use of the canceled certificate.

Regulation 8. Licensed Official Graders

SECTION 1. Graders may be licensed.—Persons showing proper qualifications may be licensed by the Secretary of Agriculture as official graders of butter, cheese, or eggs which may be graded under this act. All such licenses shall be countersigned by the specialist in charge of the Division of Dairy and Poultry Products in the bureau, the specialist in grading in that division, or by the supervising grader under whose direction the licensee is to work.

Paragraph 1. License may be suspended.—Any such license may be suspended, pending final action by the Secretary of Agriculture, by any official by whom it may be countersigned, whenever such official shall deem such action to be for the good of the service. Within seven days after such suspension the licensee may file an appeal in writing to the Secretary of Agriculture supported by any argument or evidence that he may wish to offer in his behalf.

Regulation 9. Fees and Charges

SECTION 1. Fees and charges.—The fees and charges to be collected for each lot of butter, cheese, or eggs graded or regraded under these regulations, at shipping points, designated markets, and other points, shall be as follows, unless otherwise specifically provided in supplemental schedules subsequently furnished the official inspector by the Secretary, or unless the grading or regrading is made under a cooperative agreement with a State or other agency, when the fees and charges to be collected shall be those provided for under the agreement: *Provided, however,* That an additional fee of \$3 shall be charged when the grading or regrading is made in a freight or express car or other place where the entire lot of the product is not readily accessible to the inspector.

Paragraph 1. Butter-grading fees.—For each lot of butter graded for class, quality, and/or condition, pursuant to these regulations, the fee shall be on the basis of the approximate net weight of the butter in such lot, as follows:

- (a) When each separate churning is not indicated by number or otherwise on the packages—
- | | |
|---|--------|
| For 1,500 pounds or less..... | \$1.50 |
| For more than 1,500 pounds but not more than 3,000 pounds..... | 2.25 |
| For more than 3,000 pounds but not more than 6,000 pounds..... | 3.00 |
| For more than 6,000 pounds but not more than 10,000 pounds..... | 3.75 |
| For each additional 10,000 pounds or fraction thereof beyond 10,000 pounds an additional amount of..... | .75 |
- (b) When each separate churning is indicated by number or otherwise on the packages—
- | | |
|--|------|
| For seven churnings or less..... | 1.50 |
| For each additional churning beyond seven an additional charge of..... | .15 |

Par. 2. Cheese-grading fees.—For each lot of cheese graded for class, quality, and/or condition pursuant to these regulations, the fee shall be based on the gross number of packages of cheese in such lot, as follows:

- (a) When each separate factory vat number is not indicated by number or otherwise on the packages—
- | | |
|--|--------|
| For 25 packages or less..... | \$1.50 |
| For more than 25 packages but not more than 50 packages..... | 2.25 |
| For more than 50 packages but not more than 100 packages..... | 3.00 |
| For more than 100 packages but not more than 200 packages..... | 3.75 |
| For each additional 100 packages or fraction thereof, an additional amount of..... | .75 |
- (b) When each separate factory vat number is indicated by number or otherwise on the packages—
- | | |
|--|------|
| For seven vats or less..... | 1.50 |
| For each additional vat number beyond 7 an additional charge of..... | .15 |

Par. 3. Egg-grading fees.—For each lot of eggs graded for class, quality, and/or condition, pursuant to these regulations, the fee shall be based on the gross number of packages in such lot, as follows:

- | | |
|---|--------|
| For 15 packages or less..... | \$1.00 |
| For 16 to 25 packages, inclusive..... | 1.50 |
| For 26 to 50 packages, inclusive..... | 2.25 |
| For 51 to 100 packages, inclusive..... | 3.00 |
| For 101 to 200 packages, inclusive..... | 4.00 |
| For 201 to 350 packages, inclusive..... | 5.00 |
| For 351 to 500 packages, inclusive..... | 6.00 |
| For additional 100 packages or fraction thereof, an additional charge of..... | 1.00 |

Par. 4. Fees may be based on time required.—In lieu of all fees above specified in this regulation, the fee for each lot of butter, cheese, or eggs graded for class, quality, and/or condition pursuant to these regulations may be based, when it is more expedient or equitable, upon the time actually required in making the grading at the rate of \$2 per hour, in the judgment of the grader.

Par. 5. Fees for regrading shall be three times those for original gradings, except that no fee will be charged when it is found that there was a material error in the certificate issued based upon the original grading.

Par. 6. Such charges may be made for traveling expenses and other items paid or incurred by the Department of Agriculture as will reimburse the department.

SEC. 2. Payment of fees.—The fees or charges for each grading or regrading shall be paid by the applicant in accordance with the directions on the fee bill furnished him and in advance if required by the official grader. Fees and charges for grading and regrading made by official graders acting exclusively for the Department of Agriculture shall be remitted promptly to the disbursing clerk of the Department of Agriculture. Fees for grading made by a licensed official grader acting exclusively for the Department of Agriculture, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the disbursing clerk of the Department of Agriculture. Fees for grading made by an official grader acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion

of the fees collected under a cooperative agreement as may be due the United States shall be remitted to the disbursing clerk of the Department of Agriculture. The disbursing clerk of the Department of Agriculture will cause to be returned to the person entitled thereto any money remitted in excess of the amount due the United States and to be deposited in the Treasury as miscellaneous receipts all moneys found to be due to the United States. Funds may be transferred from other branches of the Government to the Department of Agriculture to cover the cost of services rendered such other branches under the act, and when received may be credited to the fund from which the costs of the service rendered were incurred.

Regulation 10. Fraud

SECTION 1. *Misrepresentation.*—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for grading or regrading in connection with the making or filing of an application or the use of a grading or regrading certificate or a certificate of quality issued under these regulations may be deemed sufficient cause for debarring such person from any further benefits of the act, and in case of violation of the food and drugs act of June 30, 1906, may subject the shipper to prosecution and the butter, cheese, or eggs to seizure.

Regulation 11. Publications

SECTION 1. *Publications.*—Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Bureau of Agricultural Economics and such other mediums as the chief of the bureau may from time to time designate for the purpose.